

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

**ZACHARY GUSTAFSON,**

No. 3:22-cv-00921-JR

Plaintiff,

**OPINION AND ORDER**

v.

**UNITED STATES DEPARTMENT OF  
ENERGY, BONNEVILLE POWER  
ADMINISTRATION, JENNIFER  
GRANHOLM, and CHAD HAMEL,**

Defendants.

**MOSMAN, J.,**

On October 18, 2023, Magistrate Judge Jolie A. Russo issued her Findings and Recommendation (“F&R”) [ECF 60] recommending that I grant in part and deny in part Defendants’ Motion to Dismiss [ECF 55]. Plaintiff Zachary Gustafson filed objections [ECF 62], to which Defendants responded [ECF 65]. Upon review, I agree with Judge Russo, and I GRANT in part and DENY in part the Motion to Dismiss.

**DISCUSSION**

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of


the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

### CONCLUSION

Upon review, I agree with Judge Russo's recommendation, and I ADOPT the F&R [ECF 60] as my own opinion. The Motion to Dismiss [ECF 55] is GRANTED in part and DENIED in part. Any motion to amend the complaint must conform with the F&R and be filed within 30 days of this order.

IT IS SO ORDERED.

DATED this 18<sup>th</sup> day of January, 2024.

  
MICHAEL W. MOSMAN  
Senior United States District Judge